O. Prev. Adult
43

1943.

K

File No. 43

Legal Department

A **BRANCH**

Subject:—

Opinions Under the

Bombay Prevention of

Adulteration Act, 1925

P.3
E

O Prev. Adult
43

File No.

Gen. 194 e.

300 A

CONTENTS

Legal Department File No. O.Prev. Adult./1943.

Sr. No.	Compilation No.	Subject	Pages
		Opinions under the Bombay Prevention of Adulteration Act, 1925	
1.	O.No. 3243/3-5-43	Question as to what provisions will apply in respect of the inquiry into or trial of offence under the Act,	1-2.

K.N.P.
10/7
5-Cs.

P.M.K. 9/8

Mcof 9/8

Office of the R.L.A.

Section 5(2) of the Criminal Procedure Code provides that all offences under any other law shall be investgated inquired into tried and otherwise dealt with according t to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigation inquiring into or otherwise dealing with such offences. The Bombay Prevention of Adulteration Act, 1925, does not prescribe any special manner of inquiring into or otherwise dealing with offences thereunder. Consequently the provisions of the Criminal Procedure Code willapply in respect of the inquiry into or trial of offences under the Bombay Prevention of Adulteration Act.

Section 190(1) of the Criminal Procedure Code provides that except as hereinafter provided any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate Magistrate and any other Magistrate specially empowered in this behalf may take cognizance.

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a report in writing of such facts made by any police officer;

(c) upon information received from any person other than a police officer or upon his own knowledge or suspicion that such offence has been committed.

" Complaint" as defined in section 4(h) means the allegation made orally or in writing to a Magistrate with a view to his taking action under this Code that some person whether known or unknown has committed an offence, but it does not include the report of apolice officer. There is nothing in the definition of complaint which requires it to be made by the person aggrieved (A.I.R. 1929 C 639). "As a general rule it is the right and in some cases, also the duty of any person having knowledged of the commission

...ence to get the law in motion by a complaint , even though he is not personally interested or affected by the effence. There is nothing in the Code showing an intention to confine prosecutions to the persons directly injured" (13 Bom. 600). In all prosecutions the Crown is the prosecuter and not the complainant " (13 Bom. 389), It would therefore be competent for an inspector appointed under section 8 of the Bombay Prevention of Adulteration Act to launch a prosecution for any offence under the Act. It does not appear necessary either to amend the Act or to make any rule thereunder providing for delegation of any authority to the Inspector to launch prosecutions for offences under the Act. On administrative grounds it may be necessary for him to consult the proper authorities before filling a complaint. But that is a different matter. The view taken by the Additional City Magistrate, Hyderabad (Sind) at page 3 ante is not correct, unless the Act in its application to Sind is differently worded.

Sd/- P.N.M.
3/5
Remembrancer of Legal Affairs.

U.R. to G.D, No. 3243 , dated the 3rd May 1943.

K.N.P.
10/7
4-Cs.